

SEP 11 2008

OCCUPATIONAL LICENSES

BEFORE THE IDAHO STATE ATHLETIC COMMISSION

In the Matter of the License of: EDDIE F. BELEN, License No. ATMA-289, Respondent.	Case No. ATC-2008-1 FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER
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Having reviewed the Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. Eddie F. Belen (hereinafter "Respondent") is licensed with the Idaho Athletic Commission (hereinafter "Commission") under License No. ATMA-289 as a boxer (martial artist). Respondent's continued right to licensure is subject to Respondent's compliance with the laws of the Commission codified at title 54, chapter 4, Idaho Code, and the rules of the Commission, promulgated at IDAPA 03.01.01.
2. On February 19, 2008, a formal administrative Complaint was filed in this matter with the Commission. Said Complaint is expressly incorporated herein and made a part hereof.
3. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on February 19, 2008, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at his most recent home address on file with the

Board, as follows:

Eddie F. Belen
4581 Wylie Lane
Boise, ID 83703

4. The certified mail return receipt indicates that the copy of the Complaint sent by certified mail was received at Respondent's address. In addition, the envelope containing a copy of the Complaint which was sent to Respondent by regular mail was not returned to the sending office.

5. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's registration without the necessity of conducting a hearing.

6. On April 9, 2008, a Notice of Proposed Default Order and Default Order, along with another copy of the Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Eddie F. Belen
1810 W. State Street, #161
Boise, ID 83702-3955

7. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

8. On the 9th day of June, 2008, a Default Order was entered against Respondent. Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

9. As detailed in the incorporated Complaint, Respondent, while a licensed boxer, tested positive for methamphetamines during a random urine test after a fight.

CONCLUSIONS OF LAW

1. As a licensed boxer in the State of Idaho, Respondent is subject to the jurisdiction of the Commission and to the provisions of title 54, chapter 4, Idaho Code.

2. The Complaint was sent to Respondent at the address on file with the Commission. Respondent was duly and lawfully given notice of proceedings against its license pursuant to the provisions of IDAPA 04.11.01.055.

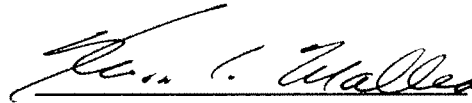
3. Respondent's failure to plead or otherwise defend in this action authorizes the Commission, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent's acts as detailed in the incorporated Complaint constitute a violation of Commission Rule 900.01 (prohibits a boxer from using a stimulant before or during a match), thereby authorizing the Commission to impose sanctions against Respondent.

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Commission take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 8 day of September, 2008


Kenneth L. Mallea
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Commission. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5243(3).

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Commission. Opposing parties shall have twenty-one (21) days to respond. The Commission may schedule oral argument in the matter before issuing a final order. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Commission may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of September, 2008, a true and correct copy of the within and foregoing document was served upon:

Eddie F. Belen
1810 W. State Street, #161
Boise, ID 83702-3955

Eddie F. Belen
4581 Wylie Lane
Boise, ID 83703

Eddie F. Belen
312 E. Florida Avenue, Apt. C
Nampa, ID 83686

Karl T. Klein
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P.O. Box 83720
Boise, ID 83720-0010

Tana Cory, Chief
State of Idaho
Bureau of Occupational Licenses
1109 Main Street, Suite 220
Boise, ID 83702-5642

☒ by U.S. mail
☐ by hand delivery
☐ by facsimile
☐ by overnight mail